

Louisiana Property and Casualty
Insurance Commission
Louisiana Department of Insurance
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Louisiana Property and Casualty
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Commissioner Wooley Unveils Hurricane
Mediation Program

Residents whose Hurricane Katrina or Hurricane Rita insurance claims are in dispute will soon be offered a possible solution at no cost to them. Commissioner of Insurance Robert Wooley has established a mediation program through which a neutral third party meets with the policyholder and the insurance company in an attempt to resolve the dispute and quickly settle the claim. The program is set to begin in early January.

The Commissioner is requiring all insurance companies in Louisiana to notify their policyholders with claims disputes about the program, regardless of whether a check has been issued. Wooley says the mediation program is mandatory for insurance companies but voluntary for policyholders. “One good thing about mediation is that the insurance company pays for it, so there is no financial burden on the policyholder,” Wooley contends. “Plus, mediation is very informal and requires that no attorney be present, unless you choose to bring one with you.”

Commissioner Wooley say mediation is non-binding, so neither the policyholder nor the company is legally obligated to accept the mediator’s settlement recommendation. “Even if a policyholder accepts a settlement at mediation, they have up to three days to change their minds as long as they notify their insurer,” Wooley adds. The Commissioner also says that choosing mediation does not prevent a policyholder from participating in other dispute resolution procedures.

The mediators being used for this program are chosen from the Louisiana State Bar Association’s approved list of mediators by the program’s administrator, the American Arbitration Association (AAA). AAA will also use as mediators those persons who are qualified under the Louisiana Mediation Act.

Policyholders wanting to try mediation as a possible means to solve their disputed residential property claims can call AAA at 1-800-426-8792, or they can contact their insurance company or agent to schedule the proceeding. AAA can also be found on the web at www.adr.org.¹

Source 1: Louisiana Department of Insurance, Public Affairs Division.

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- ◆ *The Monthly Report* is the newsletter of the Louisiana Property and Casualty Insurance Commission, Louisiana Department of Insurance, 1702 N. 3rd Street, 3rd Floor, P.O. Box 94214, Baton Rouge, LA 70804-9214 225-342-7187 (PH) 225-342-6057 (FX)

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- ◆ The Louisiana Property and Casualty Insurance Commission was created by the enactment of R.S. 22:15 in the 2001Regular Session of the Louisiana Legislature to review and examine the availability and affordability of property and casualty insurance in the state of Louisiana. The commission will also undertake a comprehensive study and provide oversight and enforcement recommendations of the effectiveness of law enforcement and implementation of programs aimed at enforcement throughout the state of those laws and programs which affect property and casualty insurance rates.

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A brochure has been written by the Public Affairs Division of the Department of Insurance to help consumers understand what to expect from the mediation program. The information provided is:

What is mediation?

Mediation is a process through which a neutral third party meets with opposing sides in an effort to resolve a dispute.

Mediation is not arbitration, where the arbitrator makes the decision on how to resolve the dispute. Instead, the mediator recommends a solution after helping the parties focus on the issues and understand each other’s point of view.

Under this program, the mediator will choose a non-threatening atmosphere for the conference, which could include meeting privately with you or your insurance company. The most important thing to remember about participating in mediation is that you have a chance to explain what you believe you are entitled to under your insurance claim.

Who are the mediators?

Our mediators are trained professionals who are skilled in resolving disputes. All have been specifically trained in mediation theory and practice.

Our mediators are unbiased. They must have no ties or affiliation with you or the insurance company.

Either party can request that the mediator be replaced if there is good cause, for instance, if there is a conflict of interest.

What are the limits?

Mediation is non-binding. Neither you nor the company is legally obligated to accept the outcome. Even if you do settle at the mediation, you have a three-day grace period to change your mind, as long as you do not cash your settlement check and you inform your insurance company that you have decided to reject the mediated outcome.

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Louisiana Property and Casualty Insurance Commission Members		
Commissioner Robert Wooley		
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Choosing mediation does not prevent you from participating in other dispute resolution procedures, or even going to court later. Nothing you say in a mediation conference can be used against you in any later proceedings.

Am I eligible?

Anyone with a disputed residential property damage claim, arising from damage caused by Hurricanes Katrina or Rita, in excess of \$500, not including the deductible, can participate in mediation. Disputed claims are exempt from mediation when fraud is suspected. Commercial and liability claims are also exempt from mediation.

How do I get started?

Your insurance company is required to notify you in writing of your right to mediation. If you wish to request mediation, contact AAA at *1-800-426-8792 or contact your insurance company or agent.*

Once mediation has been agreed to, the mediator will notify you and the company of the date, time and place of the conference. Mediation will be held at a neutral site.

Who can attend?

If you are relying on architects, adjusters or contractors to justify your claim, you may ask them to attend. Review your policy carefully and look for names of those listed as ‘named insureds.’ If the people listed there cannot attend, send someone who has the authority (often called ‘power of attorney’) and can make a decision about settling a claim to act on behalf of the ‘named insured.’ Since mediation is designed to be non-adversarial, it is not necessary to have a lawyer present. However, you may choose to have one attend.

Be sure to bring any supporting documents, including your policy, photographs, estimates, bills, reports, letters, etc. It is important to have with you specific dollar estimates or quotes for all items that are in dispute.

How much time and money is this going to cost?

Mediation can continue as long as both parties agree that they are making progress. In fact, most mediation procedures only last about two hours.

Mediation is paid for by the insurance company, except in the cases where the consumer cancels without good cause and wants to reschedule the mediation. In that case, the consumer pays.